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BEFORE THE DIVISION OF OIL, GAS, AND MINING,
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

IN RE: JUMBO MINING COMPANY,
DRUM MINE PERMIT M/027/007

PETITION FOR COMMENCEMENT OF
INFORMAL PROCEEDINGS TO
REVIEW DIVISION'S DENIAL OF
PERMIT AMENDMENT

Division File Number
M/027/007

(Informal Hearing Requested)

Petitioner, Jumbo Mining Company, hereby Petitions the Division of Oil, Gas, and Mining pursuant to Rule R613-005-104 §2.13 et. seq., to commence an informal adjudicative proceeding to review its decision denying Petitioner's request to amend its mining permit under R613-004-119 and its decision to require the transfer of Western States Minerals Corporation's mining permit as it relates to heaps LG 2 and 7 in Millard County, under R613-004-120, as a precondition to Petitioner's conducting leak tests that have been ordered by a sister State Agency.

In support of this Petition, Petitioner alleges as follows:

1. The names and address of all person to whom Notice of Agency Action should be given are as follows:

Jumbo Mining Company
Mr. E. B. King
6305 Fern Spring Cove
Austin, Texas 78739

Attorney for Jumbo Mining
Company, Clyde, Pratt and
Snow, P.C.
Steven E. Clyde
200 American Savings Plaza
77 W. 200 South
Salt Lake City, Utah 84101

Western States Minerals
Corporation
c/o Stephen D. Alfers
Davis Graham and Stubbs
P.O.Box 185
Denver, Colorado
80201-0185

Mr. Lowell P. Braxton
Associate Director, Mining
Division of Oil, Gas, and
Mining, Department of
Natural Resources,
355 West North Temple
31 Triad Center, Suite 350
Salt Lake City, Utah 84180-
1203

2. Division file Number for this matter is M/027/007.

3. This Petition is filed pursuant to the authority granted in the administrative rules of the Division, R613-005-104 §2.13 for in informal adjudicative proceeding to review the decision of the Division in denying Petitioner's request to amend its mining permit under R613-004-119, and the requirement of a partial permit transfer under R613-004-120, as a precondition to Petitioner's conducting leak tests on these heaps.

4. The facts upon which this Petition is based are as follows:

a. Jumbo Mining Company (JMC) seeks to comply with the requirements of the Utah Department of Health to provide evidence that two existing heap leach pads do not leak and are otherwise suitable for continued use. These heaps were constructed by the prior permit holder and owner of the property Western States Minerals Corporation, (Western). No construction and discharge permits were obtained from the Bureau of Water Pollution by Western. After several years of operation, during which time no leaking of leaching solution was noted in the record, and shortly before the entire operation was sold to JMC by Western, the Bureau of Water Pollution Control ordered that these heaps be removed from service, because they were not permitted.

b. These heaps were the last to be constructed by Western. They appear to be in good condition. JMC desires to have them permitted for continued use for the limited ore reserves which are currently known to remain in the area.

c. The Bureau of Water Pollution Control has requested that JMC drill approximately ten test wells around the perimeter of these heaps, and to have these test holes logged before and after testing by neutron and gamma methods, and to

submit various geological maps, etc. The heaps were then to be sprinkled with available solutions for a minimum of 60 days, and all test wells were to be logged again to determine if increased moisture could be detected in the test wells.

d. Last year, at considerable expense, JMC completed all of the above preliminary steps and started test sprinkling last fall. However, shortly after the test started, severe cold in the area prevented pumping of water from the well located seven miles distant from the heaps, and the test was terminated.

e. This spring, as required, the test wells were re-logged and preparation started for a new test. However, on February 26, 1990, the DOGM received a letter from Western, objecting to the test on the grounds that the referenced heaps had not been formally bonded by or transferred to JMC, as JMC had not chosen to assume full responsibilities for reclamation of certain portions of the mine site which were in default under the conditions of Western's permit prior to the time the property was sold to JMC.

f. It should be noted that JMC has previously provided DOGM with a copy of the pertinent section of the recorded QUITCLAIM DEED AND ASSIGNMENT whereby the property was transferred from Western to JMC. This document indemnifies

Western for any defaults arising AFTER, and clearly exempts JMC from any consequences of defaults arising PRIOR to the date of transfer under any permits, etc.

g. The fact that Western failed to set aside 35-50,000 cubic yards of topsoil as required by its permits prior to the sale to JMC has not been denied. Western now seeks to coerce JMC into indemnifying it for its previous default, and seeks to retain the cooperation of DOGM to block JMC's legitimate use of the facilities as a bargaining tool to this end.

h. The DOGM by letter dated February 28, 1990 ruled that the proposed leak detection test constituted "mining operations" and prohibited JMC from proceeding.

i. Subsequently, by letter dated May 30, 1990 JMC (having failed to receive any cooperation from Western) requested reconsideration by the DOGM of the ruling that this test constituted "mining operations" in the normal and usual sense, and cited several factors which were pertinent.

j. This appeal was denied by letter dated May 31, 1990 which emphasized that these areas could not be used by JMC "until the JMC bond and permit have been amended to accommodate the mining and reclamation operations attendant to the use of these pads." In response to this latter directive by DOGM, JMC has negotiated and posted a cash bond for the

full reclamation responsibility for the two heaps in question. In addition it submitted an amended mining plan for review and approval by the Division. Petitioner also forwarded to Western and the DOGM all of the required transfer forms, etc., but that Western has failed and refuses to sign the permit transfer forms.

k. Thus, the State of Utah is now doubly bonded for the reclamation of the two heaps in question. However, Western has refused to sign the transfer form, and the DOGM has to date refused permission to JMC to proceed with the leak test, despite being doubly bonded. Notwithstanding this, the Division has denied Petitioner's request for an amendment to its permit and has denied Petitioner the right to conduct the leak tests that have been ordered by a sister agency of the State.

l. JMC has complied with the conditions specified in the Division's letter of May 31, 1990. Western States Minerals Corporation has refused to sign the transfer papers, but this refusal has nothing to do with the present request to conduct leak tests on these two heaps, but is instead an effort to force Petitioner to modify the parties contractual obligations. This is a contractual dispute between these two parties. The State has no reason to become involved in this

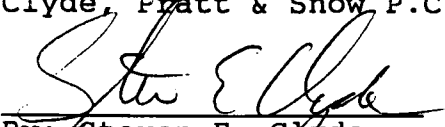
dispute. The State's interest is in the reclamation of this property upon the cessation of mining activities. That interest is amply protected through the double bonding for reclamation of these two heaps.

m. In the meantime, it serves no one's interest to allow Western's refusal to transfer its permit for these heaps to hold JMC hostage in the conducting of these leak tests. The transfer of Western's permit is not essential to the conducting of these tests under JMC's amended mining reclamation plan and reclamation surety bond.

Accordingly, Petitioner requests that this matter be set for an informal hearing in accordance with the procedural rules of the Division of Oil, Gas, and Mining and that the Division reverse its decision and approve the amended permit of Petitioner and allow it to go forward with the leak tests of these two heap pads in compliance with the directives of the Bureau of Water Pollution Control of the State of Utah.

Dated this 19th day of October, 1990.

Clyde, Pratt & Snow P.C.


By: Steven E. Clyde
Attorney for Petitioner

MAILING CERTIFICATE

I hereby certify that on this 19th day of October, 1990, I caused a true and correct copy of the "Petition for Commencement of Informal Proceedings to Review Division's Denial of Permit Amendment" to be deposited in the United States mail, postage prepaid, addressed to the following:

Jumbo Mining Company
Mr. E. B. King
6305 Fern Spring Cove
Austin, Texas 78739

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P.O.Box 185
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